

# MEMO ENDORSED

December 30, 2019

## VIA CM/ECF FILING

Hon. Edgardo Ramos  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, Courtroom 619  
New York, NY 10007

Re: Holmes v. Amazon.com, Inc., *et al.*, No. 17-cv-4557/ No. 19-cv-1628

Your Honor:

This firm represents Amazon,<sup>1</sup> one of the defendants in the above referenced actions. I write to respectfully request that Amazon's pending motion in *Holmes II* for an award of fees pursuant to Rule 68 of the Federal Rules of Civil Procedure be amended to include the fees that Amazon incurred in connection with *Holmes I* as well.

As the Court is aware, the Second Circuit Court of Appeals recently entered an order affirming the Court's July 23, 2018 Opinion and Order in *Holmes I*. *Holmes I* Docket Doc. No. 127; *Holmes II* Docket Doc. No. 112-1. In relevant part, the Second Circuit "remand[ed] the case to give Amazon the opportunity to move in the district court for an assessment of costs pursuant to Rule 68(d)" of the Federal Rules of Civil Procedure.

On April 11, 2019, *Holmes II* was referred to Your Honor upon a finding that it was related to *Holmes I*. See *Holmes II* Docket Doc. No. 36. Amazon has already sought an award of fees pursuant to Rule 68 in *Holmes II*. See *Holmes II* Docket Doc. No. 74, at 11. Rather than file, in sum and substance, a motion in *Holmes I* identical to that already before the Court in *Holmes II*, Amazon respectfully requests in the interest of judicial economy that Amazon's request for an award of fees be amended to include the fees incurred after December 29, 2017, the date upon which Holmes rejected Amazon's offer of judgment. *Holmes I* Docket Doc. No. 93-2.

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<sup>1</sup> Capitalized terms not defined herein have the meanings assigned to them in Amazon's June 3, 2019 memorandum of law in support of its motion to dismiss the complaint in *Holmes II* (*Holmes II* Docket Doc. No. 74, the "Amazon MOL").

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I thank the Court for its consideration of this submission.

Respectfully submitted,

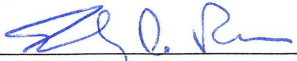
Davis Wright Tremaine LLP

/s/

Michael Goettig

cc: All parties (*via ECF*)

The application is \_\_\_\_ granted  
X denied



Edgardo Ramos, U.S.D.J

Dated: January 7, 2020

New York, New York

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